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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,874	05/30/2000	Michel Ladang	192592USONPP-CONT	1709

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EXAMINER

GOFF II, JOHN L

ART UNIT PAPER NUMBER

1733

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/580,874

Applicant(s)

LADANG ET AL.

Examiner

John L. Goff

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 10, 13, 15 and 16.Claim(s) withdrawn from consideration: 17.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

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Continuation of 5. does NOT place the application in condition for allowance because:

Applicants argue “essentially unidirectional expansion” of a facially crosslinked foam sheet is expansion perpendicular to the faces of the sheet. As to the extent one must crosslink a surface in order to achieve essentially unidirectional expansion, applicants argue one of ordinary skill in the art would be able to ascertain the requisite amount of crosslinking without undue experimentation. Applicants then further argue Tsujimoto does not teach essentially unidirectional expansion as Tsujimoto’s low-energy irradiation only results in partial crosslinking of the material.

Applicants definition of “essentially unidirectional expansion” does not define over the prior art. Applicants argue Tsujimoto does not teach the required amount of surface crosslinking for “essentially unidirectional expansion”, yet applicants do not provide any direction for what is required other than one of ordinary skill in the art would be able to ascertain the requisite degree. Applicants argue Tsujimoto teaches low-energy irradiation when the claims do not require any particular type of energy, it being noted the type of energy taught by Tsujimoto is of the type disclosed by applicant. Applicants argue Tsujimoto teaches only partial crosslinking when the claims do not require any extent of crosslinking nor does the specification disclose any particular degree. As noted in the previous Office Action the claims are not commensurate in scope with these arguments, and the specification fails to disclose how to achieve “essentially unidirectional expansion”. Furthermore, without any further disclosure of the extent of surface crosslinking to achieve “essentially unidirectional expansion” other than it would not require undue experimentation to determine, how is it possible to say Tsujimoto does not teach “essentially unidirectional expansion” when Tsujimoto clearly discloses surface crosslinking prior to

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expansion? As noted in the previous Office Action, Tsujimoto teaches preferred embodiments wherein the sheet expands 250% in the thickness and only 78% in the width. The phrase "essentially unidirectional expansion" requires nothing more than that taught by Tsujimoto such that the previous 35 USC 112 first and second paragraph rejections and the rejections over Tsujimoto are maintained.



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